

REMARKS

This Preliminary Amendment accompanies a Request for Continued Examination.

Claims 1-2, 4-16, 18-24 and 26-35 are presented for examination, of which, claims 1, 15, 23, 34 and 35 are written in independent form.

Applicants have amended claims 1, 15, 23 and 34 for clarity.

Claim Rejections under 35 U.S.C. §§ 103 and 112

The instant Office action rejects the claims for reasons that are identical to those in the February 7, 2007 Office action. Accordingly, Applicants incorporate by reference the arguments made in the June 5, 2007 response. Applicants address the new issues raised in the instant Office action below.

The Examiner's Response to Applicants' Arguments

The Office action offers an Examiner's Response to the arguments offered by the Applicants in their June 5, 2007 action response. (Office action, pp. 11-17) Applicants respectfully submit that the Examiner's Response reveals that the rejections are based on misapplication of the law and a misunderstanding of the claims. Moreover, because the Examiner's Response is replete with mischaracterizations of the claims and the Applicants' positions, Applicants do not concede or agree with any characterization made in the Examiner's Response.

The Examiner's Response Regarding the § 112 Rejection

The Office action argues that the specification is insufficient to support claim 35's recitation that several features are implemented with processors. (Office action, p. 11) The Office action is incorrect.

As shown in Figure 3, the "management system," "softswitch" and "media gateways" are illustrated as distinct entities providing various features of the system. The specification states:

Various features of the system can be implemented in hardware, software, or a combination of hardware and software. For

example, some aspects of the system can implemented in computer programs executing on programmable computers that include one or more processors.

(Specification, page 29, lines 19-23)

Accordingly, the specification explicitly recites that aspects of the system can implemented with “one or more processors.” One of ordinary skill the art would appreciate, in light of this explicit disclosure, that the “management system,” “softswitch” and “media gateways”—all of which are aspects of the system—could each be implemented with a processor.

Nonetheless, the Office action argues that the specification is deficient because it does not refer to the claimed features (*e.g.*, the media gateways, call controller and management system) as “aspects”:

Whether *features* can be implemented in hardware, and system *aspects* implemented to include one or more processors. . . this does not consolidate a claimed requirement that one separate processor has to embody respectively what is called a *management system*, a *controller*, and a *gateway*<sup>1</sup>. . . It is unclear whether the entities [recited in the specification] are defined as *aspects*. . . The Disclosure does not define that any of the claimed *management system*, a *controller*, and a *gateway* entities are *aspect*. . . [sic]

(Office action, p. 11-12, emphasis in original)

The premise for this argument is that the “claim (first, second and third processor) on its own should have direct explicit support from the Specifications.” (Office action, p. 12, emphasis added) This, of course, is incorrect. The specification and the claims need not use identical language, and support for the claims can be implicit or inherent. *See, e.g.*, MPEP § 2163 (“While there is no *in haec verba* requirement, newly added claim limitations must be supported in the specification through express, implicit, or inherent disclosure.”) Accordingly, the Office action’s position that claim 35 is not supported simply because the specification does not

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<sup>1</sup> Applicants do not concede the apparent claim construction upon which the Examiner relies.

explicitly identify the media gateways, call controller and management system as “aspects,” is misplaced.

Applicants therefore request that this rejection be withdrawn.

The Examiner’s Response Regarding the §103 Rejections

The Office action offers a lengthy Examiner’s Response regarding the rejections under 35 U.S.C. § 103. While the Applicants disagree with the entire Examiner’s Response (including the numerous mischaracterizations of the claims), Applicants will focus on portions that most directly illustrate the impropriety of the rejections.

The Examiner’s Response makes clear that the Office action is ignoring features set forth in independent claims 1, 15, 23 and 34. In particular, the Office action ignores the claimed feature that the call service component is “for a particular user area that comprises a plurality of users” because it is a “fragment of sentence [sic]” and “blunt as it is inserted in the claim between two commas”:

It appears as though ‘..., for a particular user area ... plurality of users’ is a fragment of sentence [sic] without semantic and stringent association with the *downloading* step whatsoever...

(Office action, p. 14)

Based on the language of claim 1 as set forth above, *it is deemed that ‘for a particular area comprising ... plurality of users’ as blunt as it is inserted in the claim between two commas (‘,’) does not enforce or efficiently depict a scenario of the like of the following: a component is solely requested to be available one time and utilizable in a long term to all these plurality of users by way one initial (effectuated by a service machine administrating tool) turn-on process effectuating a new service initial boot, configuration or installation including one download request such that as downloaded, the component is solely for enabling the carrier provider machine or facilities to provide functionality (based on said component that is subsequently rendered utilizable*

by the carrier server) so as to support servicing the NW area as a permanent server utility operating without interruption [sic].<sup>2</sup>

(Office action, p. 15) (emphasis added)

Applicants' representative conducted an informal teleconference with the Examiner on October 1, 2007 to clarify this issue. The Examiner confirmed this feature was not being treated as a positive limitation. Applicants are unaware of any basis to ignore claim features on the basis of their being a "fragment of sentence [sic]" or "blunt as . . . inserted in the claim between two commas." Since a whole claim may be no more than a single sentence, any claimed feature must be a "fragment of sentence [sic]." Moreover, commas do not serve as delimiters between claim language that may be ignored and claim language that may not be ignored.

Nonetheless, in an attempt to advance prosecution, Applicants have amended claims 1, 15, 23 and 34 to recite downloading a "call service component . . . in response to a network carrier turning on a new service that corresponds to the call service component, wherein the call service component is for a particular user area in the network." Applicants respectfully submit that the claims make clear that the "call service component is for a particular user area in the network." None of the cited art discloses or renders obvious the claimed subject matter.

In particular, the Office action points to column 3, line 52 - column 4, line 17 and column 5, lines 38-50 of the Reifer et al. patent as allegedly disclosing every feature of the independent claims except that the downloading occurs not on a per-call basis. (Office action at pp. 3-4, 7-11) These passages of the Reifer et al. patent discuss seemingly disparate aspects of the system: (1) how a gateway opens a channel for an individual call, and sends the call to the PSTN (*i.e.*, the public telephone network) and (2) that records are made of "activation, deactivation, and service changes." As will be discussed in turn, neither of these features in the Reifer et al. patent corresponds to downloading a component for a "plurality of users"<sup>3</sup> in response to a "network carrier" turning on a new service.

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<sup>2</sup> Presumably, the Examiner considers the language following the colon (":") to be an example of a component "for a particular user area that comprises a plurality of users." The claim is not limited to the Examiner's example.

<sup>3</sup> Or, in the case of claim 35, a "plurality of media gateways."

As an initial matter, the Office action asserts that in the Reifer et al. patent, the gateway downloads a “component” “from a PSTN server.” (Office action at p. 4) Applicants respectfully disagree with this characterization, and submit that with respect to connecting calls, no component is downloaded in the Reifer et al. patent. As disclosed by the Reifer et al. patent, and would be understood by one of ordinary skill in the art, the PSTN is the “public switched telephone network.” (Reifer et al., col. 3:35-36) In the Reifer et al. patent, the PSTN is simply the public telephone network, and is not a “server” that provides “components.” The disclosure that the Office action points to does not relate to downloading a component, but merely pertains to opening a communications channel in response to a request from a single user. (Reifer et al., col. 3:52-67)

Even assuming for the sake of argument that a “component” is downloaded at all in the Reifer et al. patent, it is not in response to anything done by the network carrier. Instead, the system in the Reifer et al. patent opens a channel in response to a user initiating a call. (Reifer et al., col. 3:52-67) Moreover, because the channel is for connecting individual calls, it is not “for a particular user area comprising a plurality of users.” At most, the channel in the Reifer et al. patent is for the one user placing the call.<sup>4</sup>

Also, the Office action’s assertion that “activation, deactivation, and service changes” correspond to downloading components “in response to a network carrier turning on a new service” is misplaced. This alleged “component” in the Reifer et al. patent is for activating, deactivating, or changing the service of an individual user and not a plurality of users, as recited in the pending claims. Moreover, the claims recite that the component “support[s] telecommunication traffic to or from” a gateway. There is no disclosure in the Reifer et al. patent to suggest that the “components” that cause “activation, deactivation, and service

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<sup>4</sup> Furthermore, even if two users in the Reifer et al. system are connected, the “component” in question is downloaded for only the user initiating the call. The receiving user has a separate “component” associated with receiving the call. (See Reifer et al., col. 3:52-67; Office action at p. 5, acknowledging that the Reifer et al. patent discloses a “half-call model”)

changes” support telecommunication traffic. The only “components”<sup>5</sup> in the Reifer et al. patent that may support telecommunication traffic are those that connect individual calls, discussed above.

Accordingly, the cited art fails to disclose or render obvious the claimed subject matter. Applicants respectfully request allowance of claims 1-2, 4-16, 18-24 and 26-35.

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

The Request for Continued Examination fee in the amount of \$810.00 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account Authorization. Please apply any charges or credits to deposit account 06-1050.

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<sup>5</sup> Again, Applicants submit that the opening of a channel in the Reifer et al. system is not downloading a “component.”

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Respectfully submitted,

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